MODS classifies Postal Service work activities, including, but not limited to, mail processing activities, using a system of standardized operation numbers. *Id.* The Postal Service states that ''MODS collects workhours associated with the operations and, as applicable, workload data from data systems such as the Time and Attendance Collection System (TACS) and [the Web End-of-Run system (webEOR)].'' *Id.*

For automated mail processing, workloads are passively obtained using machine counts of processed articles that are automatically transmitted to MODS. *Id.* The Postal Service asserts that, accordingly, these automated workloads ''generally are measured reliably.'' *Id.* at 1–2. The Postal Service states that accurate workhour measurement requires employees to ''clock into the appropriate operation number(s) for their work activities and to re-clock during shifts, as needed, to reflect changes of work activities during the workday.'' *Id.* at 2. The Postal Service states that labor productivity methodology ''must balance needs for sufficiently detailed productivities to reflect materially different costs among mailflows, while ensuring that workhour and workload data are well aligned given data generation processes.'' *Id.* The Postal Service states that the currently accepted methodology ''mitigates data issues by aggregation over time, facilities, and/or operations as well as by outlier screening.'' *Id.* According to the Postal Service, the Proposal retains these methodologies with certain changes discussed below. *See id.*

Proposal. The Proposal updates the methodology for developing MODS-based labor productivity data for selected mail processing operations based on certain operational, facility, and time aggregation changes. *Id.* The Proposal reflects, among other things, ''the discontinuation of certain flats operations, including the Flats Sequencing System (FSS) and the UFSM 1000; the supplanting of Sack Sorting Machine (SSM) processing with universal sorters; and [the] incorporat[ion of] additional operations related to the processing of undeliverable-as-addressed (UAA) letters and flats.'' *Id.* (internal footnotes omitted). Additionally, the Proposal updates the role of network distribution centers (NDCs) in mail processing operations to reflect that NDCs provide significant processing, particularly for parcels, but ''no longer have a distinct network role.'' *Id.* The Proposal combines data for NDCs with other MODS plants in order to provide ''more comprehensive coverage of operations'' carried out by both types of facilities. *Id.* at 2, 6. The Proposal also increases the frequency of MODS data inputs from monthly to weekly. *Id.* at 7. The Postal Service contends that ''[t]he increased frequency would improve data quality by requiring workload and workhour data to be aligned at the weekly level and . . . reject data from periods where workhours and workloads are not both recorded.'' *Id.* at 8. The Proposal provides detail on these and other proposed changes to labor productivities to reflect operational, network, and equipment changes. *Id.* at 6–20. The Postal Service presents the proposed updates to MODS-based labor productivities in its Proposal. *Id.* at 4–5, Table 1.

Rationale and Impact. The Postal Service states that ''[t]he proposed [labor] productivities better reflect current mailflows, incorporate additional operation groups to facilitate future mailflow model refinements, and cease reporting of certain discontinued operations.'' *Id.* at 1. The Proposal compares Fiscal Year (FY) 2025 labor productivities under the proposed methodology compared to current FY 2025 labor productivities. *Id.* at 21–22, Table 4. The Postal Service states that new labor productivities ''will decrease the associated model costs if the new productivity is higher or increase them if the new productivity is lower, other things equal.'' *Id.* at 23. The Postal Service describes the impacts of the Proposal on FY 2025 First-Class Mail and USPS Marketing Mail letter mail processing models, FY 2025 First-Class Mail and USPS Marketing Mail flat mail processing models, and FY 2025 Parcel Select cost models. *Id.* at 23–28.

III. Notice and Comment

The Commission establishes Docket No. RM2026–7 for consideration of matters raised by the Petition. More information on the Petition may be accessed via the Commission's website at *https://www.prc.gov.* Interested persons may submit comments on the Petition and Proposal no later than October 30, 2026. Pursuant to 39 U.S.C. 505, Jana Slovinska is designated as an officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding. The Public Representative does not represent any individual person, entity or particular point of view, and, when Commission attorneys are appointed, no attorney-client relationship is established.

IV. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. RM2026–7 for consideration of the matters raised by the Petition of the United States Postal Service to Initiate a Proceeding to Change Analytical Principles, filed September 16, 2026.
2. Comments by interested persons in this proceeding are no later than due October 30, 2026.
3. Pursuant to 39 U.S.C. 505, the Commission appoints Jana Slovinska to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this docket.
4. This order, or abstract thereof, will be published in the **Federal Register**.

By the Commission.

Sarah Wessel,

Senior Paralegal Specialist.

[FR Doc. 2026–19361 Filed 9–21–26; 8:45 am]

BILLING CODE 7710–FW–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

46 CFR Part 390

[Docket Number MARAD–2026–1552]

RIN 2133–AC06

Capital Construction Fund Revision

AGENCY: Maritime Administration (MARAD), U.S. Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM), request for comments.

SUMMARY: MARAD proposes to revise its regulations governing the filing of applications and administration of Capital Construction Fund (CCF) Program accounts. The proposed rule would (i) conform the regulations to recent statutory amendments extending CCF Program application to all U.S. built vessels engaged in United States domestic or foreign commerce, (ii) eliminate limitations on CCF Program availability to certain geographic trades, (iii) clarify the maximum allowable completion time for reconstruction projects, and (iv) provide for funds to be used for acquisitions under certain circumstances. In addition, the NPRM proposes a mechanism to terminate inactive accounts, accounts with a zero balance, and accounts where a CCF Program objective has failed to commence within a 10-year period. The proposed rule would also correct numerous citations, modernize text, update agency contact information, and remove obsolete references.

DATES: MARAD invites the public to comment on this proposed rule and information collection. Comments should be filed on or before November 23, 2026. Late-filed comments will be considered to the extent practicable.

ADDRESSES: You may submit comments identified by DOT Docket Number listed above by any of the following methods:

• *Federal eRulemaking Portal: www.regulations.gov.* Search using the DOT Docket Number provided above and follow the instructions for submitting comments.

• *Mail/Hand-Delivery/Courier:* Docket Management Facility: U.S. Department of Transportation, 1200 New Jersey Avenue SE, Room W12–140, Washington, DC 20590. If you would like to know that your comments reached the facility, please enclose a stamped, self-addressed postcard or envelope. The Docket Management Facility is open 9:00 a.m. to 5:00 p.m., Monday through Friday, except on Federal holidays.

Note: We recommend that you include your name and mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission. If you submit your inputs by mail or hand-delivery, they must be submitted in an unbound format, no larger than 8½ by 11 inches, single-sided, suitable for copying and electronic filing. All submissions received should include the agency name and docket number or Regulation Identifier Number (RIN) for this rulemaking.

Instructions: All comments received will be posted without making any changes to the DOT Docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments and additional information on the rulemaking process, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: David M. Gilmore, Director, Office of Marine Financing, (202) 366–5737 or via email at *marinefinancing@dot.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during business hours. The FIRS is available twenty-four hours a day, seven days a week, to leave a message or question. You will receive a reply during normal business hours. You may send mail to Mr. Gilmore at the following address: U.S. Department of Transportation, Maritime Administration, Office of Marine Financing, 1200 New Jersey Avenue SE, Washington, DC 20590. If you have questions about viewing the Docket, call Docket Operations, telephone: (800) 647–5527.

SUPPLEMENTARY INFORMATION:

Electronic Access and Filing

This document, including a summary of the rule as required by 5 U.S.C. 553(b)(4), and all comments may be viewed online through the Federal eRulemaking portal at *www.regulations.gov.* An electronic copy of this document may also be downloaded by accessing the Office of the Federal Register's home page at: *www.federalregister.gov.*

Privacy Act: Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, or other entity). For information on DOT's compliance with the Privacy Act, please visit *https://www.transportation.gov/privacy.*

Background

Regulatory Review

Improvement of regulations is a continuous focus for DOT and MARAD. For that reason, DOT and MARAD regularly and deliberately review their rules in accordance with Executive Order (E.O.) 12866, Regulatory Planning and Review (October 4, 1993), and section 610 of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* That process is summarized in Appendix D of DOT's semi-annual regulatory agenda. In addition, E.O. 14192, Unleashing Prosperity Through Deregulation (February 6, 2025), and E.O. 14219, Ensuring Lawful Governance and Implementing the President's ''Department of Government Efficiency'' Deregulatory Initiative (February 19, 2025), directed agencies to further scrutinize their regulations to reduce unnecessary costs, clear barriers to emerging technology, and alleviate unnecessary regulatory burdens.

Accordingly, MARAD has identified its CCF regulations governing applications and administrative procedures for consideration. In this proposed rule, MARAD seeks comment to ensure that the program remains current and is the least burdensome to the public. MARAD welcomes your comments to ensure that agency programs reflect current and comprehensive best practices.

This rule proposes revision of the CCF regulations found at 46 CFR part 390. The program was established by the Merchant Marine Act of 1936 (MMA) and is codified at 46 U.S.C. chapter 535.

The CCF Program

The purpose of the program is to assist owners and operators of United States flagged vessels in accumulating the large amount of capital necessary for the modernization of their commercial fleets. The CCF Program was expanded significantly in December 2022 with the passage of the National Defense Authorization Act for Fiscal Year 2023 (2023 NDAA). Section 3544 of the 2023 NDAA extended the use of the program to all U.S. built vessels engaged in the domestic or foreign commerce of the United States, removing limitations on the availability of the CCF Program to certain geographic trades. The requirements in the current regulations have been superseded by these statutory updates.

The program encourages construction, reconstruction, or acquisition of vessels through deferment of Federal income taxes. Owners and operators of vessels deposit income from operations of eligible vessels into CCF accounts prior to paying income taxes. All deferred taxes are eventually recovered upon the sale of the vessel because the cost basis of the vessel is reduced by the dollar amount of CCF funds used for its acquisition or reconstruction.

To participate in the program, a vessel owner applies to MARAD's Office of Marine Financing in advance of the relevant Federal tax filing due date. The application identifies the income earning vessel(s), the type of project(s) anticipated, and the financial institution that will hold the CCF deposits. Once MARAD determines that an application complies with the CCF statute and regulations, a CCF Agreement is executed between the United States and the vessel owner or operator.

Currently, there are 129 CCF Agreements with a total of approximately $2.56 billion on deposit. Many of these CCF Agreements were established years ago and identify scheduled projects that are no longer viable. Consequently, CCF participants are faced with either having funds languish on deposit for nonviable scheduled projects or making non-qualified withdrawals of funds and paying deferred taxes at the highest marginal rate. The number of CCF Agreements has been increasing since the expansion of the program to all U.S. built vessels engaged in the domestic or foreign commerce of the United States. Without an update to the regulations to address this issue, it is expected to become more acute. MARAD's proposed regulatory revisions establish a mechanism to amend obsolete agreements to avoid non-qualified withdrawals or top-rate deferred tax penalties and to direct participants to invest idle capital into viable modern projects.

The authority to issue regulations to implement the program is granted under 46 U.S.C. 53502(a), which permits the Secretary of Transportation (delegated to MARAD) to prescribe regulations (except for the determination of tax liability) to carry out the program. Although the CCF Program regulations have been amended over the years, the current requirements and limitations remain substantially the same as when MARAD introduced them in 1976. The proposed rule would (i) conform the regulations to recent statutory amendments extending the application of the CCF Program to all U.S. built vessels engaged in the domestic or foreign commerce of the United States, (ii) eliminate certain geographic trade limitations, (iii) clarify the maximum allowable completion time for reconstruction projects, and (iv) provide for funds to be used for acquisitions under certain circumstances pursuant to 46 U.S.C. 53509. Revisions would also correct numerous citations in accordance with the codification of title 46 of the United States Code, improve accessibility by modernizing text, update agency contact information, remove obsolete references, and provide a mechanism to terminate inactive accounts, accounts with a zero balance, and accounts where a CCF Program objective has failed to commence within a 10-year period.

The proposed changes to the CCF regulations are deregulatory and intended to ease current restrictions on the allowable uses of CCF accounts while remaining consistent with current agency priorities of incentivizing private investment in the construction of commercial vessels. For example, currently, when establishing a CCF, unless there is new construction of at least one vessel as a program goal, there must be a reconstruction program goal of at least $1,000,000 for each vessel. This limitation is without regard for the number of vessels being reconstructed. This minimum threshold for reconstruction restricts the number of participants in the program. The intent of the revision to the reconstruction program goal is to allow for participation by applicants with smaller vessels that would otherwise be excluded by permitting the reconstruction costs of multiple vessels to be aggregated to meet minimum program requirements.

Public Participation

How long do I have to submit comments?

We are providing a 60-day comment period.

How do I prepare and submit comments?

To ensure that your comments are correctly filed in the Docket, please include the Docket Number shown at the beginning of this document in your comments.

Comments may be submitted to the docket electronically by logging onto the Docket Management System website at *http://www.regulations.gov.* Search using the docket number and follow the online instructions for submitting comments. Please submit your comments, including the attachments, following the instructions provided under the above-entitled heading **ADDRESSES**.

Please note that pursuant to the Data Quality Act, for substantive data to be relied upon and used by the agency, it must meet the information quality standards set forth in the Office of Management and Budget (OMB) and DOT Data Quality Act guidelines. Accordingly, we encourage commenters to consult the guidelines in preparing your comments. OMB's guidelines may be accessed at *https://www.opm.gov/information-management/information-quality-guidelines/*. DOT's guidelines may be accessed at *https://www.transportation.gov/sites/dot.gov/files/docs/regulations/513/dot-information-quality-guidelines-2019.pdf.*

How can I be sure that my comments were received?

If you wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail.

Will the Agency consider late comments?

MARAD will consider all comments that the Docket Management Office receives before the close of business on the comment closing date indicated above under the **DATES** section of this proposed rule. To the extent possible, MARAD will also consider comments received after that date. If the Docket Management Office receives a comment too late for MARAD to consider in developing this action, MARAD will consider that comment as an informal suggestion in future rulemaking actions.

How can I read the comments submitted by other people?

You may read the comments received by the Docket Management Office at the address given above under **ADDRESSES**. The hours of the Docket Management Office are indicated above in the same location. You may also see the comments on the internet. To read the comments on the internet, go to *http://www.regulations.gov.* Follow the online instructions for accessing the dockets.

Please note that, even after the comment closing date, MARAD will continue to file relevant information to the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically check the Docket for new material.

Summary of Revisions

MARAD proposes to redesignate the sections and to amend the program regulations for purposes of clarity and brevity.

Section 390.1 Purpose (formerly Scope of the regulations).

Specifies clearly the purpose of the regulation.

Section 390.3 Definitions (formerly Application for an agreement).

Groups all definitions into one section to improve overall readability.

Section 390.5 Applying for a Capital Construction Fund Agreement (''Agreement'') (formerly Policy considerations).

Identifies the eligibility requirements and summarizes the application process in one section for clarity and improved accessibility.

Section 390.7 Acquisition, construction, or reconstruction (formerly Description of the agreement).

Highlights the acceptable objectives of the program to clarify the requirements of the statutory provision governing qualified withdrawals at 46 U.S.C. 53509.

Section 390.9 Non-qualified and permissible operations (formerly Agreement vessels).

Proposes edits to this section to reflect the updates to 46 U.S.C. 53501, which was amended by the 2023 NDAA to substitute ''foreign or domestic trade of the United States'' for ''United States foreign, Great Lakes, noncontiguous domestic, or short sea transportation trade.''

Section 390.11 Constructive deposits, constructive withdrawals, and ratification of withdrawals without consent (formerly Administration of the agreement).

Outlines the constructive deposit and withdrawal process and makes other non-substantive edits to this section for clarity.

Section 390.13 First Tax Year for which an agreement is effective (formerly Deposits into the fund).

Proposes minor, non-substantive edits to this section for clarity and improved accessibility.

Section 390.15 Annual reporting and modification of agreement (formerly Investment in the fund).

Clarifies the reporting requirements and process to modify the agreement.

Section 390.17 Automatic termination of agreement (formerly Qualified withdrawals).

Proposes revisions to provide for termination of inactive CCF agreements and agreements with zero balances on deposit.

Section 390.19 Maximum deposit amounts and time to deposit (formerly Non-qualified withdrawals).

Sets forth the maximum annual ceiling established by 46 U.S.C. 53505 and other non-substantive edits to this section for clarity.

Section 390.21 CCF Accounts (formerly Sale or other disposition of agreement vessels).

MARAD is proposing to make minor, non-substantive edits to this section for clarity.

Section 390.23 Conditional consent to withdrawal qualification (formerly Liquidated damages).

Proposes to update the items needed for a withdrawal determination.

Section 390.25 Sale or other disposition of agreement vessels (formerly Failure to fulfill a substantial obligation under the agreement).

Updates the citations for accuracy.

Section 390.27 Failure to fulfill a substantial obligation under the agreement (formerly Departmental reports and certification).

MARAD is proposing to update contact information.

Section 390.29 Miscellaneous.

Section added to provide for confidentiality and timing of filings.

Rulemaking Analysis and Notices

Executive Order 12866

This NPRM is not a significant regulatory action under E.O. 12866; therefore, it was not reviewed by OMB. It is also not considered a major rule for purposes of congressional review under the Congressional Review Act. This NPRM is limited to (i) conforming the regulations to recent statutory amendments extending the application of the CCF Program to all U.S. built vessels engaged in the domestic or foreign commerce of the United States, (ii) eliminating limitations on the availability of the CCF Program to certain geographic trades, (iii) clarifying the maximum allowable completion time for reconstruction projects, and (iv) providing for funds to be used for acquisitions under certain circumstances as specified in section 53509.

Need for the Regulation

A complete revision of the regulations is necessary to address the effects of time for an implementing regulation that has remained substantially unchanged for 40 years. Through this proposed revision, MARAD incorporates changes to reflect statutory changes from the National Defense Authorization Act for fiscal year 2022 (NDAA 2022). Specifically, the NDAA 2022 modified the definition of qualified vessels (46 U.S.C. 53501(5)) and removed trading restrictions on vessels eligible to participate in the program (46 U.S.C. 53503(b)) to expand the program to include almost any commercial vessel owner and operator in the U.S. registry. In addition, the proposed revision reorganizes the regulation and modernizes the language for clarity and ease of use.

Baseline

Under this baseline, existing account holders in the CCF Program are assumed to comply with the statutory expansion enacted by Section 3544 of the NDAA 2022. This update extended CCF eligibility to all vessels operating in foreign and domestic commerce of the U.S. as long as they were built in the U.S. and are registered with the U.S. Coast Guard. Affected entities follow the statutory program, but face uncertainty and unnecessary delay because of the regulation, which does not conform to the statute. Vessel operators experience administrative burden and uncertainty regarding outdated criteria, such as the requirement to pay liquidated damages when operating in an unauthorized geographic trade. In addition, applicants may overlook the CCF Program as an option to assist with construction of new vessels or reconstruction of their existing vessels because the regulation would lead many to believe incorrectly that they are ineligible to participate in the program or that any vessels constructed or reconstructed utilizing the program are subject to geographic trading restrictions.

Costs

The revised rule does not impose any new or additional compliance requirements or costs. Many of the revisions are intended to conform with statutory updates, and others are simply incorporating current practices in evaluating eligibility. The revised rule will apply current policy practices and use modern regulatory language intended for simplicity, clarity, and brevity. Improvements are expected to result in administrative efficiencies and clarity in applicant and vessel eligibility requirements.

Benefits

Improved administrative efficiency and clarification of practices will make the rule and the program more accessible and attractive to industry. As a result, the CCF Program should garner better prepared program participants that can best use the program for the benefit of the maritime sector. In addition, expanding the reconstruction threshold to $3,000,000 across multiple vessels provides access to smaller operators who were previously excluded by per-vessel minimums, deleting the geographic trading restrictions opens additional markets to owners for sale of vessels, and clarifying obligations of account holders to maintain accounts with active objectives. According to the latest available data from the U.S. Army Corps of Engineers, there were over 1,800 operators operating about 37,000 vessels (tugs, barges, push boats, etc.) on the inland waterways. Over 80 percent of these operators operate 10 or fewer vessels. provides a clear path for the deployment of capital into active and useful projects. Together, these updates should build applicant confidence in the program.

Executive Order 14192 (Deregulation)

E.O. 14192 requires that for ‘‘each new [E.O. 14192 regulatory action] issued, at least ten prior regulations be identified for elimination.’’ Implementation guidance for E.O. 14192, issued by OMB (Memorandum M–25–20, March 26, 2025), defines an E.O. 14192 deregulatory action as ‘‘an action that has been finalized and has total costs less than zero.’’ This rule would, if adopted, have total costs less than zero and therefore be an E.O. 14192 deregulatory action.

Executive Order 13132 (Federalism)

MARAD analyzed this rulemaking in accordance with the principles and criteria contained in E.O. 13132, *Federalism,* and has determined that it has no substantial effect on the States, on the current Federal-State relationship, or on the current distribution of power and responsibilities among local officials. Nothing in this document preempts any State law or regulation. Therefore, MARAD did not consult with State and local officials on this rulemaking and did not prepare a Federalism summary impact statement.

Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.,* as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), Public Law 104–121, whenever an agency is required to publish a notice of proposed rulemaking, the agency must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.,* small businesses, small organizations and small governmental jurisdictions), unless the head of the agency certifies the rule will not have a significant economic impact on a substantial number of small entities. Agencies must also provide a statement of the factual basis for this certification.

For the following reasons, the MARAD Administrator certifies that this rulemaking action would not have a significant economic impact on a substantial number of small entities. The revisions to the regulations update administrative criteria, conform to statutory requirements, update citations and addresses, and modernize text. The revisions will also allow for easier submission of applications due to the elimination of obsolete requirements and clarifications in requirements for vessel owners and projects eligible to participate.

Privacy Impact Assessment

Section 522(a)(5) of the Transportation, Treasury, Independent Agencies, and General Government Appropriations Act, 2005 (Pub. L. 108–447, div. H, 118 Stat. 2809 at 3268) requires DOT and certain other Federal agencies to conduct a privacy impact assessment of each proposed rule that will affect the privacy of individuals. This rulemaking, which (i) conforms the regulations to statutory amendments extending the application of the CCF Program to all U.S. built vessels engaged in the domestic or foreign commerce of the United States, (ii) eliminates limitations on the availability of the CCF Program to certain geographic trades, (iii) clarifies the maximum allowable completion time for reconstruction projects, and (iv) provides for funds to be used for acquisitions under certain circumstances, does not result in personally identifiable information (PII) being collected or maintained in a Government-run website or IT system. Therefore, MARAD did not conduct a Privacy Impact Assessment.

Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, requires agencies to evaluate whether an agency action would result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of $212 million or more (as adjusted for inflation in 2026) in any one year, and if so, to take steps to minimize these unfunded mandates. This rulemaking will not impose unfunded mandates under the UMRA. It will not result in costs of $212 million or more to either State, local, or Tribal governments, in the aggregate, or to the private sector, so the analytical requirements of the UMRA do not apply. The rule is the least burdensome alternative that achieves MARAD's stated objectives for the rule.

National Environmental Policy Act (NEPA)

Pursuant to 49 CFR 1.81, the Secretary has delegated the ''functions'' under NEPA to the DOT Administrators ''as they relate to the matters within the primary responsibility of each Operating Administration.'' MARAD has determined that this rule is categorically excluded pursuant to DOT Order 5610.1D, subpart C, section (e)(3). A categorical exclusion (CE) is an action identified in an agency's NEPA procedures that does not normally have a significant impact on the environment and therefore does not require either an environmental assessment (EA) or environmental impact statement (EIS). *See* DOT Order 5610.1D, section 9. In analyzing the applicability of a CE, the agency must also consider whether extraordinary circumstances are present that would warrant the preparation of an EA or EIS. *Id.* at section 9(b). MARAD may utilize its own CEs, in addition to CEs listed in DOT Order 5610.1D Appendix A or another Operating Administration's CEs, using the procedures described in DOT Order 5610.1D, section 9, and subpart C, section (e). This proposed rulemaking, *Capital Construction Fund Revision,* is categorically excluded pursuant to DOT Order 5610.1D, subpart C, section (e)(3): ''Internal orders and procedures not required to be published in the **Federal Register**, promulgation of rules, regulations, directives, and amendments thereto that do not require a regulatory impact analysis under section 3 or do not have a potential to cause a significant impact on the environment . . .'' MARAD does not anticipate any environmental impacts, and there are no extraordinary circumstances present in connection with this rulemaking.

Regulation Identifier Number

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501, *et seq.*), a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid OMB control number. This proposed rule would establish a new requirement for the collection of information for all CCF applicants. MARAD has requested that OMB review and approve the information collection requirements under the PRA.

In accordance with the PRA, MARAD invites public comments regarding the collection of information arising under this proposed rule.

—Copies of this notice and information collection may be found by going to *https://www.reginfo.gov/public/do/PRAMain.*
—*Title of Information Collection:* Information Collection to Apply for and Maintain a Capital Construction Fund.
—*OMB Control Number:* Pending.
—*Form Number:* None.
—*Expiration Date of Approval:* Three years following approval by the Office of Management and Budget.
—*Abstract:* Persons or Entities applying for MARAD approval to open and maintain Capital Construction Fund (CCF) accounts. Persons or Entities applying must submit certain information described in 46 CFR part 390 and agree to certain conditions. MARAD is proposing the use of three separate instruments to apply for and maintain a CCF—the form of application, agreement, and annual report form. All information described in part 390 will be required to be submitted and is necessary for proper review of the applicant's qualifications and the maintenance of their account over time. The information collected will be used by MARAD to (1) ensure MARAD's action to open a CCF account is consistent with pertinent IRS regulations; (2) monitor relevant financial and vessel construction and reconstruction information to assess account holder compliance with the agreement terms and activities within

the CCF program; (3) evaluate the applicant's U.S. citizenship status and eligibility; and (4) demonstrate to MARAD that the applicant has the financial capabilities to accomplish its proposed program, by submitting audited balance sheets and income statements (unaudited statements are accepted from smaller companies that do not have audited statements).

—*Respondents:* Individuals, partnerships, companies, or corporations seeking or maintaining accounts.
—*Estimated number of respondents:* 243 respondents annually.
—*Annual estimated total annual burden hours:* 3037.5 hours.
—*Frequency of response:* Annually.

List of Subjects in 46 CFR Part 390

Income taxes, Investments, Maritime carriers, Reporting and recordkeeping requirements, Vessels.

For the reasons described in the preamble, MARAD proposes to revise 46 CFR part 390 as set forth below:

SUBCHAPTER K—REGULATIONS UNDER PUBLIC LAW 91–469

PART 390—CAPITAL CONSTRUCTION FUND FOR VESSELS

Sec.

390.1 Purpose.
390.3 Definitions
390.5 Applying for a Capital Construction Fund Agreement.
390.7 Acquisition, construction, or reconstruction.
390.9 Non-qualified operations.
390.11 Constructive deposits, constructive withdrawals, and ratification of withdrawals without consent.
390.13 First tax year for which an agreement is effective.
390.15 Annual reporting and modification of agreement.
390.17 Automatic termination of agreement.
390.19 Maximum deposit amounts and time to deposit.
390.21 CCF Accounts.
390.23 Conditional consent to withdrawal qualification.
390.25 Sale or other disposition of agreement vessels.
390.27 Failure to fulfill a substantial obligation under the agreement.
390.29 Miscellaneous.

Authority: 46 U.S.C. ch. 535, 49 CFR 1.93(a)

§ 390.1 Purpose.

This part prescribes rules and regulations pertaining to the filing of Capital Construction Fund Program applications and the administration of funds subject to a Capital Construction Fund Agreement, for the purpose of providing replacement vessels, additional vessels, or the reconstruction of vessels to be built and documented in the United States and operated in the United States Foreign and Domestic Trade.

§ 390.3 Definitions.

Agreement means the contract to participate in the program between the approved CCF applicant (party) and the Maritime Administration (MARAD).

Act means ch. 535 of title 46 of the U.S. Code (46 U.S.C. 53501–53517), amended from time to time.

Agreement Vessel means any Eligible Vessel or Qualified Vessel that is subject to an Agreement. For purposes of generating ceilings and making Qualified Withdrawals, the term agreement vessel includes containers, trailers or barges that are part of the complement of an agreement vessel. The complement is limited to three times the container, trailer, or barge capacity of the vessel, unless MARAD agrees to a different complement.

CCF means Capital Construction Fund for Vessels.

Citizen of the United States or U.S. Citizen means any individual who is a United States citizen, and any corporation, partnership, association, or company organized under the laws of any State that meets the requirements of 46 U.S.C. 50501, as amended.

Constructed in the United States means a Vessel that:

(a) Is built entirely in a shipyard or shipyards within any of the United States and its territories;

(b) Has all the major components of its hull and superstructure fabricated in the United States; and

(c) Is assembled entirely in the United States.

Depository or Depositories means the designated bank or brokerage account(s) listed in Schedule D where the CCF funds will be physically held.

Domestic Trade means:

(a) Commerce or trade between two points in the contiguous United States; and

(b) Noncontiguous commerce or trade as defined in 46 U.S.C. 53501(4).

Eligible Vessel means a Vessel as defined in 46 U.S.C. 53501(2).

Extension Period means the period beginning the first day following the end of the Filing Period and ending on the last day of the party's last filing extension.

Filing Period means the period beginning the first day following the end of the Tax Year and ending on the party's last day to file their tax return absent a filing extension.

Foreign Trade means foreign commerce or trade as defined in 46 U.S.C. 109.

Joint Regulations mean regulations prescribed jointly by MARAD and Treasury under section 53502(b) of title 46.

MARAD means the Maritime Administration, an agency within the U.S. Department of Transportation.

Non-qualified Withdrawal means any withdrawal from an account that is not a Qualified Withdrawal.

Qualified Withdrawal means any withdrawal as defined in 46 U.S.C. 53509.

Qualified Vessel means a Vessel as defined in 46 U.S.C. 53501(5).

Schedule A means the section of the Agreement that designates the income producing vessel(s) from which deposits are made into a Depository.

Schedule B means the section of the Agreement that designates the qualified project(s) for which the CCF funds are to be expended.

Schedule C means the section of the Agreement that designates the Depository or Depositories for the CCF.

Schedule D means the section of the Agreement that indicates the deposits into the CCF.

Share Interest in a Vessel means the right to use the Vessel to generate income or a right to the proceeds or a portion of the proceeds from the Vessel's use (*i.e.,* proceeds that may result from a joint venture or partnership) even if the applicant does not have a proprietary interest in the Vessel for purposes of State or Federal law.

Tax Due Date means the date the party's Federal tax return must be filed, including extensions, with the Internal Revenue Service.

Tax Year means the period between January 1 and December 31 for calendar year filers or the designated fiscal year for fiscal year filers.

United States means the States of the United States of America, the District of Columbia, and, for citizenship purposes, includes the Commonwealth of Puerto Rico, American Samoa, Guam, the U.S. Virgin Islands, the Northern Mariana Islands, and any other territory, or possession of the United States.

Vessel means a vessel as defined at 1 U.S.C. 3 and 46 U.S.C. 53701 and includes the following:

(a) Non-loading equipment (*i.e.,* cargo handling equipment) ordinarily carried from port to port and not typically subject to frequent replacement due to normal wear and tear;

(b) Share Interest in a Vessel; and

(c) An Eligible Vessel under construction or has been contracted for, but construction has not yet begun.

§ 390.5 Applying for a Capital Construction Fund Agreement.

(a) *General eligibility requirements.* To be eligible to enter into an Agreement an applicant must:

(1) Be a Citizen of the United States;

(2) Own or lease one or more Eligible Vessels or share thereof (as defined in the Act), be party to a contract for the construction of one or more Eligible Vessels or share thereof operating in the Foreign or Domestic Trade of the United States;

(3) Have an acceptable plan to acquire, construct, or reconstruct one or more Qualified Vessels. The plan must be a firm representation of the applicant's actual intentions. Qualified Vessels must be operated in Foreign or Domestic Trade of the United States; and

(4) Demonstrate the financial capabilities to accomplish the program objective.

(b) *Application.* Applicants seeking an Agreement must submit a completed application form. The form of application and submission guidance may be found on the program web page of MARAD's website at *http://www.maritime.dot.gov.* The application must be received on or prior to the Tax Due Date for the Filing Period of the Federal tax return to be effective for the Tax Year to which that return relates. The applicant should file at least 45 days in advance of such date.

(c) *Additional information may be required.* An applicant must provide such facts, documents, and materials as MARAD may require in considering whether to enter into an Agreement. An applicant should be ready to make available such applicable materials, including but not limited to design plans, data concerning the reasonableness of the cost of the program objective, construction contracts, financial statements, certificates of incorporation, bylaws, articles of partnership, stock ownership data, and other information including judgments and pending litigation that would affect the proposed program objective. The specific information required to be submitted is set forth in MARAD submission guidance.

§ 390.7 Acquisition, construction, or reconstruction.

(a) *Acceptable objective.* Generally, CCF funds may only be used for the acquisition, construction, or reconstruction of vessels documented in the United States and manned with United States Citizens in support of maintaining and increasing the Foreign and Domestic Trade of the United States.

(b) *Acquisition.* CCF funds may be used for the:

(1) Purchase of a new vessel from the constructing shipyard;

(2) Purchase of a vessel that is more than one year old for which there will be substantial reconstruction completed within 18 months of withdrawing CCF funds;

(3) Acquisition of a contract to construct a new Qualified Vessel;

(4) Acquisition of interest in a partnership or limited liability company; and

(5) Acquisition of existing vessels as part of the purchase of a corporation, limited liability company, partnership, or association.

(c) *Construction.* CCF funds may be used to construct a new Qualified Vessel.

(d) *Reconstruction.* The following applies to reconstruction:

(1) CCF funds may be used for the reconstruction of a vessel that can include rebuilding, replacing, reconditioning, refurbishing, converting, or improving any portion of a vessel;

(2) Reconstruction must substantially prolong the useful life of the vessel, increase its value, materially increase its safety, reliability, or energy efficiency, or adapt it to a different commercial use in the industry;

(3) Reconstruction must increase a vessel's competitiveness, efficiency, and productivity with an economically useful life for a substantial period of time beyond the date reconstruction is completed; and

(4) Repairs necessary to meet any regulatory standards or any applicable classification standards, or for previous inadequate maintenance and repair do not constitute reconstruction for purposes of this rule.

(e) *Indebtedness.* CCF funds may be used for new indebtedness incurred for one of the acceptable program objectives set forth in this section.

(f) *Time permitted for construction or reconstruction.* Construction or reconstruction must be completed within 36 months from the date construction or reconstruction first commences, unless otherwise consented to by MARAD.

(g) *Unacceptable objectives.* MARAD will not enter into an Agreement where the application:

(1) Fails to provide for one or more replacement, additional, or reconstructed vessel for operation in the Foreign or Domestic Trade of the United States;

(2) Proposes reconstruction of existing vessel(s) with no additional program objective, unless such reconstruction will:

(i) Collectively exceed $3,000,000 in cost;

(ii) Will be capitalized under the Internal Revenue Code of 1986, as amended, implementing regulations; and

(iii) Will result in (a) significantly more competitive vessel(s).

(3) Proposes reconstruction of an existing vessel that is more than 25 years old at the time of withdrawal;

(4) Proposes acquisition of an existing vessel (except as provided for in paragraph (b) of this section); or

(5) Proposes payment of the principal on existing indebtedness.

§ 390.9 Non-qualified operations.

Non-qualified operations for Qualified Vessels include:

(a) The use of barges as docks and ramps;

(b) The use of a vessel as housing, restaurant, public space, or other similar primary use in a fixed location;

(c) The foreign-to-foreign trade, consisting of voyages originating and ending in foreign ports, with no intermediate domestic cargo operation;

(d) Trade from foreign ports to and from U.S. oil rigs in international waters; and

(e) Bunkering in support of non-qualified trade operations.

§ 390.11 Constructive deposits, constructive withdrawals, and ratification of withdrawals without consent.

(a) *Constructive deposits and withdrawals before Agreement executed date.* Constructive deposits and withdrawals are deemed to have been deposited to and withdrawn from a designated CCF account even if the funds are not physically deposited.

(1) Constructive deposits and withdrawals are permissible only during the tax year for which a written application for an Agreement is submitted to MARAD.

(2) Once MARAD executes the Agreement, the constructive deposit and withdrawal period ends, and all deposits must be physically deposited into a designated CCF account.

(b) *Consent for constructive deposits and withdrawals.* All qualified deposits and withdrawals occurring within the period specified in paragraph (a) of this section may be consented to by MARAD as constructive deposits and withdrawals so long as the following criteria are met:

(1) The amount deposited into the account for a taxable year does not exceed the sum of—

(i) That portion of the taxable income of the owner or lessee for the taxable year (computed under chapter 1 of the

Internal Revenue Code of 1986 (26 U.S.C. ch. 1) but without regard to the carryback of net operating loss or net capital loss or this chapter) attributable to the operation of Agreement Vessels in the foreign or domestic trade of the United States or in the fisheries of the United States;

(ii) The amount allowable as a deduction under section 167 of such Code (26 U.S.C. 167) for the taxable year for Agreement Vessels;

(iii) If the transaction is not taken into account for purposes of paragraph (i), the net proceeds (as defined in Joint Regulations) from the disposition of an Agreement Vessel or from insurance or indemnity attributable to an Agreement Vessel;

(iv) The receipts from the investment or reinvestment of amounts held in the account; and

(v) For a lessee, the maximum amount that may be deposited for an Agreement Vessel under subsection (b)(1)(ii) for any period must be reduced by any amount the owner is required or permitted, under the Agreement, to deposit for that period for the Vessel under subsection (b)(1)(ii).

(2) For MARAD to consent to constructive deposit and withdrawal treatment, the applicant must include a written request with the application and provide sufficient supporting data to enable MARAD to evaluate the request; and

(3) The written request must be submitted no later than the extension period for that party's initial tax year.

(c) *Constructive deposits and withdrawals after the Agreement effective date.* Constructive deposits or withdrawals are not permitted after the effective date of an Agreement. Deposits made after the effective date of an Agreement must be physically deposited into a dedicated CCF account.

§ 390.13 First tax year for which an agreement is effective.

(a) *First tax year for which an Agreement is effective.* For an Agreement to be effective for any applicant's tax year, the written application must be submitted to MARAD before the end of the 'Filing Period' or 'Extension Period' for that tax year, whichever applies.

(1) If the written application is received by MARAD after the end of the 'Filing Period' or 'Extension Period,' whichever applies, then the Agreement will be first effective for the next succeeding tax year.

(2) An applicant must submit a written application at least 45 days in advance of the end of the applicant's tax due date. If the written application is submitted too close to the tax due date, and MARAD does not execute the Agreement prior to the tax due date, the applicant bears the burden of negotiating with the Internal Revenue Service for relief.

(3) Penalties related to a denied application will be considered due to the applicant's failure to apply for an Agreement in a timely manner.

(b) *Ratification of withdrawals.*

(1) Any withdrawals that require MARAD's consent made after the effective date of an Agreement and without MARAD's consent are automatically Non-qualified Withdrawals, unless MARAD subsequently consents to them by ratification;

(2) MARAD may ratify, as qualified, any withdrawal made under paragraph (1), provided the withdrawal would have resulted in MARAD's consent had it been requested before withdrawal;

(3) MARAD may issue retroactive consent, if appropriate. However, if MARAD does not issue retroactive consent for withdrawals made without consent, those withdrawals and any associated penalties will be deemed due to the party's failure to apply in a timely manner;

(4) A party must submit a request for withdrawal at least 45 days in advance of the expected withdrawal date;

(5) Withdrawals made without MARAD's consent or in reliance on obtaining MARAD's consent are made purely at a party's own risk;

(6) Should any withdrawal be made without MARAD's consent prove, for any reason, to be one that MARAD will not or cannot consent to ratify, then the result will be a Non-qualified Withdrawal or an involuntary termination of the Agreement or both;

(7) Should a party withdraw CCF funds for a project not previously deemed an eligible Schedule B objective without having first obtained MARAD's consent, MARAD may entertain an application to amend the Agreement's Schedule B objectives as the prerequisite to consenting by ratification to the withdrawal; and

(8) Redeposit of any withdrawals made without MARAD's consent, and for which such consent is not subsequently given (either by ratification or otherwise), is not permitted. If the Non-qualified Withdrawal adversely affects the Agreement's general status, MARAD may terminate the Agreement.

§ 390.15 Annual reporting and modification of agreement.

(a) *Annual reporting requirements.*

(1) Every party to an Agreement must file a final deposit and withdrawal report annually for each Depository at the end of the tax year. Each report must be—

(i) Filed no later than 30 days after expiration of the due date for filing the party's Federal income tax return;

(ii) Made using a MARAD form (including all exhibits and, if applicable, a copy of the applicant's extension of time to file the tax return) using a separate form for each Depository; and

(iii) Include the certification of an independent certified public accountant to the effect that the report and supporting exhibits include all deposit and withdrawal activity and are prepared in accordance with all published orders, rules, regulations, and instructions issued by MARAD. Where there is no deposit or withdrawal activity with respect to a Depository during the party's tax year, a report must be submitted showing the lack of activity.

(2) Failure to submit the report will be cause for involuntary termination of the associated Agreement.

(3) MARAD may, at its discretion, after due notice, disqualify withdrawals and involuntarily terminate the Agreement of any participant that fails to submit the required annual report(s).

(b) *Modification of Agreement.*

(1) The Agreement is subject to modification and amendment by mutual consent. MARAD will normally agree to modification or amendment of the schedules unless such modification or amendment delays imposition of Federal income tax in a manner not contemplated or authorized by the Act, or if the proposed modification or amendment would not be in consonance with the policies of the Act, this part, or the Joint Regulations.

(2) MARAD may require a Non-qualified Withdrawal if the modification or amendment results in an amount held in the account in excess of an amount determined to be necessary to meet the Agreement's objectives.

§ 390.17 Automatic termination of agreement.

(a) If a Schedule B objective has not commenced within 10 years from the date the Agreement was established and the Agreement has not been extended by written approval of MARAD, the Agreement will be considered inactive and subject to termination; and

(b) If the account balance of all depositories of an Agreement is zero dollars 10 years after the date it was established, and the Agreement has not been extended through amendment, the Agreement will be considered inactive and subject to termination unless a Schedule B objective has commenced.

§ 390.19 Maximum deposit amounts and time to deposit.

(a) Deposits cannot be made once a party has deposited 100 percent of the anticipated cost of all Schedule B objectives unless the Agreement is then amended to establish additional Schedule B objectives.

(b) MARAD will permit deposits of any given Schedule B objective to accumulate for a maximum of 25 years.

§ 390.21 CCF Accounts.

(a) *General.* Each CCF account in a scheduled depository will have an account number that must be reflected in the reports required in section 390.15. All CCF accounts must be reserved only for CCF transactions. Intermingling of CCF and non-CCF transactions is prohibited.

(1) CCF accounts may not be pooled without the prior consent of MARAD; and

(2) Safe deposit boxes, safes, or the like are not eligible as CCF depositories without MARAD's consent, which may be granted solely at MARAD's discretion.

(b) *Assignment.* The use of funds held in a CCF depository for transactions structured as a countervailing balance, compensating balance, pledge, assignment, or similar security arrangement without the prior written consent of MARAD will constitute a material breach of the Agreement.

(c) *Depositories.* Amounts in a CCF account must be kept in the depository or depositories specified in the Agreement and be subject to such trustee or other fiduciary requirements as MARAD may require. Unless otherwise specified in the Agreement, the party may select the type or types of accounts in which assets may be deposited.

(d) *Dual use account.* A CCF account may, with MARAD approval, serve in lieu of a restricted or reserve fund account required in connection with a financing through the Federal Ship Financing Program in accordance with 46 U.S.C. ch. 537 and MARAD implementing regulations. Approval will be conditioned upon the execution by the party of an Agreement, satisfactory in form and substance to MARAD, governing the dual use of the CCF account. Requests for permission to use a CCF account in this dual capacity must be made in writing to MARAD.

(e) *Timing of deposits.*

(1) All amounts deposited in the CCF account are presumed to have been deposited pursuant to an Agreement unless, after an examination of the facts upon the request of the Commissioner of Internal Revenue or the Commissioner's delegate, MARAD determines otherwise. The Commissioner or the Commissioner's delegate will request such a determination where MARAD determines there is a substantial question as to whether a deposit is made in accordance with an Agreement;

(2) Deposits are not taxable for the applicable taxable year only when made in accordance with the Agreement and not later than the time provided in the Joint Regulations;

(3) A party may make deposits for any taxable year prior to the time provided in the Joint Regulations in accordance with the following:

(i) Amounts representing taxable income attributable to the operation of Agreement Vessels for a taxable year may be deposited at any time during such taxable year, and thereafter within the time provided for in the Joint Regulations, based upon the party's estimated Federal taxable income for such vessels for the entire taxable year;

(ii) Amounts representing net proceeds from the sale or other disposition (including mortgaging) with respect to Agreement Vessels may be deposited when received or accrued and thereafter within the time provided for in the Joint Regulations;

(iii) Amounts representing receipts from the investment or reinvestment of amounts held in a CCF account may be deposited when received or accrued and thereafter within the time provided for in the Joint Regulations; and

(iv) Amounts representing depreciation with respect to Agreement Vessels for a taxable year may be deposited at any time during such taxable year, and thereafter within the time provided for in the Joint Regulations.

(4) MARAD may require that deposits be made earlier than the latest time provided for in the Joint Regulations; and

(5) MARAD will require early deposits only when necessary for the party to meet its agreed upon obligations.

§ 390.23 Conditional consent to withdrawal qualification.

(a) MARAD may conditionally consent to the classification of a withdrawal that would otherwise be considered a Non-qualified Withdrawal as a Qualified Withdrawal. Such consent will be conditioned upon the timely submission to MARAD of the items requested in the conditional approval letter. Failure to provide these items in a timely manner will result in the withdrawal being determined to be a Non-qualified Withdrawal, involuntary termination of the Agreement, or both.

(b) MARAD will administer a withdrawal subject to this section as follows:

(1) Any withdrawal from a CCF account that has not received conditional consent from MARAD or if the requestor does not timely provide the items required by the conditional approval letter is a Non-qualified Withdrawal.

(2) For the tax implications of a Qualified and Non-qualified Withdrawal, see the Act and the Joint Regulations.

(c) Prior written consent of MARAD is required before a withdrawal requested pursuant to this section may be made and not considered a Non-qualified Withdrawal.

§ 390.25 Sale or other disposition of agreement vessels.

(a) *Eligible Vessels.* Prior MARAD approval is not required for a party to an Agreement to sell or otherwise dispose (including the mortgage) of an Eligible Vessel but the party must provide written notification within 30 days after the sale or other disposition to include a description of the transaction, the identity of the transferee, the proceeds to be realized, the date of the transaction, and whether the proceeds will be deposited into the CCF account.

(b) *Qualified vessels.* (1) MARAD approval is required prior to the sale or other disposition (including the mortgage) of a Qualified Vessel.

(2) The sale or other disposition (including the mortgage) of a Qualified Vessel that has had its cost basis reduced within the last year using Qualified Withdrawals is prohibited.

(3) If MARAD determines that the sale or other disposition of a Qualified Vessel is in violation of this section, MARAD will require the following from the party to the Agreement:

(i) Payment of interest on the amount of the gain on the Qualified Vessel attributable to the basis reduction; and

(ii) The deposit into the CCF account of the net proceeds from the sale of the Qualified Vessel or deposit of the net proceeds from the mortgage of the Qualified Vessel for which Qualified Withdrawals from the CCF account have been made.

(4) For purposes of this section, *last year* is 365 calendar days from the date of final delivery or redelivery from the shipyard for new construction or reconstruction, respectively, or from the

date of first loading of the vessel for acquisition.

(c) *Sale or other disposition of Agreement Vessels to related persons.*

(1) Net proceeds from the sale or other disposition of an Agreement Vessel will be the fair market value of the vessel when the party and the purchaser are owned or controlled directly or indirectly by the same interests within the meaning of section 482 of the Internal Revenue Code of 1986, as amended, and implementing regulations. In such case, the party must furnish data to establish that the amount realized or to be realized is the fair market value; and

(2) Sufficient data must be submitted to support a MARAD determination of the fair market value including the original cost of the vessel, dates of original delivery, acquisition, and reconstruction (as applicable), cost of improvements, sales price, costs of sale, and any other information that would assist in making such determination.

§ 390.27 Failure to fulfill a substantial obligation under the agreement.

If MARAD determines that a party to an Agreement holder fails to fulfill a substantial obligation under the Agreement, MARAD will send a certified letter informing the party that the Agreement will terminate 60 days after the date of the letter unless the deficiencies identified in the letter are addressed to MARAD's satisfaction.

§ 390.19 Miscellaneous.

Wherever MARAD prescribes time constraints, the postmark date will control if mailed. If a courier service is used the date listed on the label will control.

By order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2026–19367 Filed 9–21–26; 8:45 am]

BILLING CODE 4910–81–P

GENERAL SERVICES ADMINISTRATION

48 CFR Part 538

[GSAR Case 2026–G501; Docket No. GSA–GSAR–2026–0563; Sequence No. 1]

RIN 3090–AL13

General Services Administration Acquisition Regulation; GSAR Implementation of Executive Order 14275, Federal Supply Schedule Ordering Procedures

AGENCY: Office of Acquisition Policy, General Services Administration (GSA).

ACTION: Proposed rule.

SUMMARY: GSA is proposing to amend the General Services Administration Acquisition Regulation (GSAR) to move Federal Supply Schedule (FSS) ordering procedures from the Federal Acquisition Regulation (FAR) to GSAR part 538. This rule would direct ordering activities to use the FSS ordering procedures established by GSA.

DATES: Interested parties should submit written comments to the Regulatory Secretariat Division at the address shown below on or before October 22, 2026 to be considered in the formation of the final rule.

ADDRESSES: Submit comments in response to GSAR case 2026–G501 to: *https://www.regulations.gov* via the Federal eRulemaking portal by searching for ''GSAR Case 2026–G501''. Select the link ''Comment Now'' that corresponds with GSAR Case 2026–G501. Follow the instructions provided at the ''Comment Now'' screen. Please include your name, company name (if any), and ''GSAR Case 2026–G501'' on your attached document. If your comment cannot be submitted using *https://www.regulations.gov,* call or email the points of contact in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

To view the docket summary, click on ''View docket'' on the top left corner of the screen.''

Instructions: Please submit comments only and cite GSAR Case 2026–G501, in all correspondence related to this case. Comments received generally will be posted without change to *https://www.regulations.gov,* including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check *https://*
approximately two to three days after submission to verify posting.

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact Thomas O'Linn at *GSARPolicy@gsa.gov* or call 202–445–0390 and cite ''GSAR Case 2026–G501''. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202–501–4755 or *GSARegSec@gsa.gov.* Please cite GSAR Case 2026–G501.

SUPPLEMENTARY INFORMATION:

I. Background

Office of Federal Procurement Policy (OFPP), Office of Management and Budget (OMB); Department of Defense (DoD); General Services Administration (GSA); and National Aeronautics and Space Administration (NASA) (collectively referred to as the Federal Acquisition Regulatory Council or FAR Council) are working to amend the FAR to implement Executive Order (E.O.) 14275, Restoring Common Sense to Federal Procurement. The E.O. directs the elimination of excessive acquisition regulations to stop the inefficient use of American taxpayer dollars. In response to E.O. 14275, the Office of Management and Budget issued memorandum M–25–26, Overhauling the Federal Acquisition Regulation. The Memo directed the FAR Council to complete a ''revolutionary overhaul'' of the FAR (herein referred to as ''Revolutionary FAR Overhaul'' or ''RFO'').

The FAR Council's RFO FAR case 2026–003 includes the complete revision to FAR part 8. FAR part 8, specifically FAR subpart 8.4, is where FSS ordering procedures are currently located. FAR case 2026–003 removes FSS ordering procedures and instead directs agencies to use the FSS ordering procedures provided by GSA. As a result, GSA is proposing to amend the GSAR to move FSS ordering procedures to GSAR part 538.

II. Discussion and Analysis

Currently, FAR part 8 contains requirements, guidance, and procedures for acquiring and using excess property and ordering products and/or services from Federal Prison Industries (FPI), AbilityOne participating nonprofit agencies, the Federal Supply Schedule (FSS) program, and the Government Publishing Office.

FAR case 2026–003 removes duplicative requirements, guidance, and procedures currently found in the FAR part 8 and directs agencies to rely on the requirements, guidance, and procedures provided by these sources.

The FSS program pursuant to 41 U.S.C. 152(3) is directed and managed by GSA. GSA develops and oversees FSS ordering procedures. Currently, FSS ordering procedures are codified in Chapter 1 of Title 48 of the CFR (see FAR subpart 8.4). FSS ordering procedures would be moved under this proposed rule to Chapter 5 of title 48 of the CFR. At the same time, FSS ordering procedures are being reorganized to harmonize with RFO efforts and improve readability. The removal of FSS ordering procedures from FAR part 8 provides GSA with the flexibility necessary to better manage FSS ordering procedures and support customers' use of the FSS program. A summary of proposed changes to existing FSS ordering procedures follows: